

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

CRAIG MONROE PLUNKETT,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIV-09-947-F
	)	
GARVIN COUNTY,	)	
	)	
Defendant.	)	

REPORT AND RECOMMENDATION

Plaintiff, state prisoners appearing pro se, filed this civil rights action pursuant to 42 U.S.C. §1983 on August 27, 2009. The matter was referred to the undersigned Magistrate Judge by United States District Judge Friot on August 28, 2009, for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). On August 28, 2009, the undersigned reviewed the pleadings filed by Plaintiff and entered an Order notifying Plaintiff that the documents filed on August 27, 2009, were deficient because the motion to proceed *in forma pauperis* that had been submitted was missing the financial information and/or signature of an authorized officer of the penal institution and missing a certified copy of the statement(s) of Plaintiff's institutional account(s) for the six-month period immediately preceding this filing. The Plaintiff was ordered to cure this deficiency by September 15, 2009, and advised that if the deficiency was not cured, the undersigned would recommend the dismissal of the action without prejudice. As of this date, Plaintiff has failed to comply or file any further pleadings

with the Court.

Plaintiff's lack of interest in complying with the Court's Order combined with the Court's attempt to manage and control its caseload warrant a dismissal of the Complaint without prejudice. See Gripe v. City of Enid, Okla., 312 F.3d 1184, 1188 (10<sup>th</sup> Cir. 2002) (Federal Rules of Civil Procedure authorize sanctions, including dismissal, for failure to comply with court's orders). See also Nasious v. Two Unknown B.I.C.E Agents at Arapahoe County Justice Center, 492 F.3d 1158, 1161 n. 2, 1162 (10<sup>th</sup> Cir. 2007)(*sua sponte* dismissal for failure to comply with court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing action without prejudice for failure to comply).

### RECOMMENDATION

In view of the foregoing, the undersigned recommends that the action be dismissed without prejudice. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by October 7<sup>th</sup>, 2009, in accordance with 28 U.S.C. § 636 and LCvR 72.1. The failure to timely object to this Report and Recommendation would waive appellate review of the recommended ruling. Moore v. United States of America, 950 F.2d 656 (10<sup>th</sup> Cir. 1991); cf. Marshall v. Chater, 75 F.3d 1421, 1426 (10<sup>th</sup> Cir. 1996)(“Issues raised for the first time in objections to the magistrate judge’s recommendations are deemed waived.”).

This Report and Recommendation disposes of all issues referred to the undersigned

Magistrate Judge in the captioned matter, and any pending motion not specifically addressed herein is denied.

ENTERED this 17<sup>th</sup> day of September, 2009.



GARY M. PURCELL  
UNITED STATES MAGISTRATE JUDGE